

No. 11359-4Lab-73/38984.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Haryana Textiles, Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK.

Reference No. 198 of 1972

between

SHRIMATI KANTI DEVI AND THE MANAGEMENT OF M/S HARYANA TEXTILES,  
ROHTAK.

Present.—

Shri Ved Parkash, for the Eworker.

Nemo, for the management.

#### AWARD

Shrimati Kanti Devi concerned worker was in the service of M/s Haryana Textiles, Rohtak. The management terminated her services with effect from 5th April, 1972 allegedly without any notice or charge sheet. She approached the management for reinstatement but without any satisfactory response. This gave rise to an industrial dispute. The matter was taken up before the Conciliation Officer. The management, however, did not show any willingness to take her back on duty.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (i) of Section 10 of the Industrial Disputes Act, 1947 referred the above dispute for adjudication to this court,—vide order No. ID/RK/155-A-72/30450-54, dated 3rd August, 1972, with the following term of reference.

“Whether the termination of services of Smt. Kanti Devi was justified and in order? If not, to what relief is she entitled?”

The parties were called upon to put in their respective written statements. The worker filed the statement of claim on 3rd January, 1975 reiterating her above demand for reinstatement and payment of back wages contending that she had been in the service for 3 years with a unblemished record of service and the management had refused her work without any justification, notice or charge-sheet, simply by way of victimisation as she had demanded over time wages. The management contested her claim on her brief ground that she had in fact been engaged by a Contractor and as such there was no relationship of master and employee between the parties.

The case had to be adjourned several times as both the parties have expressed their inability to appear for one reason or the other. Finally, however, the management elected not to appear and take part in the proceedings and the case was proceeded *ex parte* against the management. The worker made her own detailed statement in support of her claim on 16th August, 1973. On the same day an employee of the management appeared and prayed for setting aside the *ex parte* proceedings. The request was allowed subject to payment of Rs. 50 as costs and the case was fixed for 4th September, 1973 for payment of costs and for the filing of the detailed written statement. The cost were paid on that date but further adjournment was sought for the filing of the written statement as the authorised representative of the management was stated to be ill. The adjournment asked for was granted without any further costs but the management again made the default. No written statement was filed. In fact none appeared on behalf of the management to contest the claim of the worker.

I have heard the learned representative of the worker and given very careful consideration to the facts on record, as made out from the statement on oath of the worker read with her demand notice given earlier which forms part of the present reference. She had been engaged by the management at Rs. 200 p.m. as a piece-rated worker. But her services were terminated after 3 years in April, 1972 without any notice, charge-sheet or giving her any opportunity to defending herself. According to her the dispute arose because she demanded overtime wages as she had been asked to work on 5th December, 1972 which was her weekly rest. In cross-examination by the authorised representative of the management she emphatically denied the allegation that she had in fact been engaged by the Contractor and not by the management which fact finds further support in the attendance card issued by the management itself which is on record as Ex. W. 1.

So, taking into consideration all the facts and the circumstances of the case discussed above, I am satisfied that the termination of the services of the worker by the management is without justification and not in order especially when the management is not coming forward to refute her claim in spite of getting adequate opportunities. The issue involved is found in favour of the worker and against the manage-

ment and she is entitled to reinstatement with full back wages. The award is made accordingly. There shall be no order as to costs.

Dated the 12th November, 1973.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 2573, dated the 13th November, 1973.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 11361-4 Lab-73/38987.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. VIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of the M/s Kelvinator of India Ltd., Faridabad:—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER LABOUR COURT, HARYANA,  
ROHTAK

Reference No. 151 of 1970

between

SHRI BHAGWAN DASS AND THE MANAGEMENT OF M/S KELVINATOR OF INDIA LTD.,  
FARIDABAD

Present.—

Shri Darshan Singh, for the workman.

Shri Jaswant Singh, for the management.

#### AWARD

Shri Bhagwan Dass concerned workman was in the service of M/s Kelvinator of India Limited, Faridabad as a Driver since November, 1962. The management terminated his services with effect from 6th March, 1970 allegedly on the ground of poor eye-sight rendering him unfit to discharge his services as a Driver. Feeling aggrieved he raised a demand for reinstatement to which the management did not agree. This gave rise to an industrial dispute. The matter was taken up for conciliation which also ended in failure.

On receipt of the failure report from the Conciliation Officer, the Governor of Haryana, referred the dispute for adjudication to this court,—*vide* order No. ID/FD/57-B/26734-38, dated 3rd September, 1970, with the following term of reference.

“Whether the termination of services of Shri Bhagwan Dass was justified and in order? If not to what relief is he entitled?”

The parties were called upon to put in their respective written statements. The workman filed his claim statement reiterating his demand for reinstatement and payment of back wages denying the allegation of the management that his eye-sight was poor. The management controverted the above assertion and raised a number of preliminary objections giving rise to the following issues.

1. Whether no industrial dispute exists or ever existed between the management and its workman regarding the dismissal of Shri Bhagwan Dass and the reference is, therefore, invalid?
2. Whether the reference stands vitiated because no notice of demand was served on the management?

3. Whether the reference has no effective existence in the eye of law because the statement of claim is filed for and on behalf of Shri Bhagwan Dass himself?
4. Whether the proceedings are legally invalid because the workmen have not filed any statement of claim relating to the dismissal of Shri Bhagwan Dass and they have not?
5. Whether the claim of statement is invalid because the Faridabad Engineering Workers Union being an outside Union has no *locus standi* to act on behalf of the workman.
6. Whether the Faridabad Engineering Workers Union is precluded from raising or espousing the cause on behalf of the workman Shri Bhagwan Dass?

After considering the evidence on both sides my learned predecessor found all the preliminary issues in favour of the workman,—*vide* his order dated 26th March, 1971.

Thereafter the following additional issue was framed in the case.

7. Whether the workman is unable to perform his duties because of his defective eye?

In support of the above issue the management has examined one witness namely Dr. Minoo S. Saraf of Darya Ganj, Delhi who as a result of his examination of the eye-sight of the workman as per his certificate Exhibit M. W. 1/1 on record has stated that it would be unsafe for this workman to drive motor vehicle on a public road particularly a heavy vehicle such as Bus or Truck. However, he can drive a light vehicle provided he wears contact lens which are properly fitted and tolerated by him.

On the other hand, Shri Bhagwan Dass concerned workman has made his own statement and placed reliance upon a Medical Certificate Exhibit W. 1 issued by sent Parmand Blind Relief Hospital, Alipur road, Delhi advising him the use of contact lens. This certificate was put to M. W. 1 Dr. Saraf also in cross-examination and he has agreed to this suggestion provided the lens is properly fitted and tolerated by the patient.

Arguments have been addressed on both sides and I have a very careful consideration to the facts on record. Shri Bhagwan Dass concerned workman is an old employee having joined service with the present management as back as in November, 1962 and there has apparently been no complaint of any sort against him during this period of 10 years or so. Unfortunately he has developed a defect in one of his eyes which cannot, however, be considered to be all together in curable taking into consideration the medical opinion produced on both sides. It may not be safe for him to drive heavy vehicles on a public road like Trucks, Buses but with the use of properly fitted contact lens he can safely drive a light vehicle which the management can and should provide taking into consideration his unblemished record of 10 years service. It would be a great hardship to throw this old man out of job especially in these days of high cost of living and for no fault of his. He is otherwise quite fit and healthy. The management should give him adequate chance to drive a light vehicle with the help of contact lens as advised by the Doctors. The additional issue No. 7 is accordingly decided in favour of the workman and against the management and the termination of his services is consequently held to be unjustified and not in order. In the circumstances, he is entitled to reinstatement with continuity of his previous service with full back wages. There shall, however, be no order as to costs.

Dated 12th November, 1973.

O. P. SHARMA,

Presiding Officer,  
Labour Court Haryana,  
Rohtak.

No. 2571, dated 13th November, 1973

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Department, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

S. N. BHANOT,

Commissioner for Labour and Employment &  
Secretary to Government Haryana.